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STEVEN L. NICHOLS
RADER, FISHMAN & GRAVER PLLC
10653 S. RIVER FRONT PARKWAY
SUITE 150
SOUTH JORDAN, UT 84095

EXAMINER	
MAI, TRI M	
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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/021,267
Filing Date: October 29, 2001
Appellant(s): CHENEY, DALE S.

Steven L. Nichols
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/14/2006 appealing from the Office action mailed 07/19/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The examiner would further note that the open position as set forth in the claims is what is shown in Fig. 7 when the hooking cam 45 started to engage the lid latch 50. This is not actually an open position as shown in Fig. 1, where no one can insert or retrieve any contents from the box.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

1,155,447	Saunders	10-1915
532,067	Howe	1-1895
2,708,302	Wilkirson	12-1954
Re16643	Luce	5-1927
460,437	Grove	9-1891

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 27, 28, 30, 34, and 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Remington et al. (4363226).

Regarding the broadest claim 53, Remington teaches a base structure 12, a lid 14, a lid coupler comprising hooking cams 38, 40 and lid latches 16 with protrusions 42 configured to releasably couple the lid to the base structure. With respect to the recitation "the lid coupler engages the lid when the lid is in an open position". It is noted at Fig. 3 where the two hooking cams 38 and 40 rotate to engage the lid latch at protrusions 42. Although Fig. 3 does not show the first moment, hooking cams 38 in their first moment to engage latch protrusions 42. The examiner submits that when the hooking cams 38 and 40 would engage first at the slanted edges (note the slanted edge adjacent numeral 38 in Fig. 5). As the locks rotate the slanted edges would force the latch protrusions 42 into the lock position in Fig. 3.

Regarding claim 27, the claim further recites the lid actuator including the hooking cam such that as the lid actuator is rotated, the lid latch tracks along the hooking cam while the lid is pulled down. The examiner submits that the operation of the hooking cams portions 38 and 40

are described as above, i.e., when the hooking cams 38 and 40 would engage first at the slanted edges (note the slanted edge adjacent numeral 38 in Fig. 5). As the locks rotate the slanted edges would force the latch protrusions along with the lid into the lock position in Fig. 3. The claim further recites the cable and pulley. Remington teaches this limitation with pulleys 74,76 (col. 4, ln. 50) and cable 120 (col. 5, ln. 11).

Regarding claim 28, the examiner submits that the base structure can be attached to a vehicle and a size to fit between the truck bed, i.e., the base can be tied to a truck bed and its smaller size is between the walls of the truck bed.

Regarding claim 30, Figs. 3 and 4 show the lid actuators 42 positioned in the notches of hooking cams 40 and 38.

Regarding claim 34, in Fig. 2, note the L-shaped sidewall of lid latch 16.

2. Claims 35, and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Saunders (1155447).

In claim 35, Saunders teaches storage box having a base structure, a lid coupler connected to the lid and the base structure, a lid coupler including a lid latch and a lid actuator. The lid actuator including a hooking cam 11 to engage the lid latch 10 while the lid is in an open position such that the lid latch tracks along the hooking cam of the lid actuator such that the lid actuator is rotated the lid latch tracks along the hooking cam and the lid actuator is pulled down along the thickness of portion 14.

Regarding the limitation wherein the lid actuator rotates substantially 180 degrees, it is submitted that the curve portion 14 is about 180 degrees. Thus portion 10 can travel substantially 180 degrees as claimed, depending on the rotating closing force. There is nothing

to limit the traveling of portion 10 the entire curved portion 14. The functionality of the actuator rotating 180 degrees does not impart any structure over the latch structure in Saunder.

Regarding claim 36, to the degree a vehicle is not claimed, the base can be configured to attach to a truck as claimed, and can be positioned between sidewalls of a truck bed, e.g., it can be tied down by straps or by other brackets, or receptacles.

3. Claim 53 is rejected under 35 U.S.C. 102(b) as being anticipated by Howe (532067), or in the alternative, over Howe. Howe teaches a box having a base structure a, a lid pivotally connected to the base structure, a lid coupler including two lid couplers (each lid coupler comprises of portions C and C3). With respect to the recitation "the lid coupler engages the lid when the lid is in an open position", it is noted that this coupling position is shown in Fig. 2 wherein the hooking cams at C2 started to engages by touching the lid latch C3.

Furthermore, to the degree it is argued that the two portions a and b are not pivotally connected. Official Notice that it would have been obvious to one of ordinary skill in the art to provide a hinge to provide a pivotal connection.

4. Claim 53 is rejected under 35 U.S.C. 102(b) as being anticipated by either Wilkirson (2708302) or Luce (Re16643). Wilkirson teaches a box having a base structure a, a lid pivotally connected to the base structure, a lid coupler including lid couplers, each comprises of portions 51 and 54. When the hooking cams 51 would engage first at the groove 52 this is the open position as claimed. As cams 51 rotate, the cams engage latches 54 along with the lid into the lock position in Fig. 13.

In the Luce reference, note first at the trunk embodiment in Fig. 7 which shows an ordinary trunk with a hinge lid. Note that the details in the two latches 22c and 22b shows

clearly in Fig. 3 where the hook portion 22 engages the latch protrusion 18 along the path 18. The examiner submits that when the hooking cams 22 engages the latch protrusion 18 along the path 18. This is the same as applicant's open position.

5. Claims 35-36, 38, 39, 43-49, and 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Grove (460437).

Regarding claims 35 and 53, Grove teaches a container having a container having a storage box having a base structure, a lid, a lid coupler connected to the lid and the base structure. The lid coupler comprises an actuator B, and a lid latch B'. The lid actuator including a V shaped hooking cam with one leg at b3 to engage the lid latch B' while the lid is in an open position as shown in Fig. 3. The lid latch B' tracks along the hooking cam of the lid actuator such that the lid actuator is rotated the lid latch tracks along the hooking cam and the lid actuator is pulled down along the curve and into the notch at B2 (note point b3 in Fig. 1).

Claim 43 adds another limitation where the lid actuator and latch each rotatable in a common plane to a front. The examiner submits that the term "front" is broad and any walls in Groove can be called a front. Thus, the both portions B' and B in Fig. 3 rotatable in a common plane to a front similar to that of applicant's with respect to the plane in fig. 3.

Claim 35 adds another limitation wherein the actuator substantially 180 degrees. It is noted that the actuator would travel from the position shown in Fig. 3 to the position shown in Fig. 1 wherein portion b5 is rested on the wall A'. Thus, the actuator travels substantially 180 degrees as claimed.

6. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grove (460437) in view of Howe (532067). Grove meets all claimed limitations except for the two actuators and

two lid latches. Howe teaches that it is known in the art to provide a container with two actuators and two lid latches. It would have been obvious to one of ordinary skill in the art to provide two lid couplers in Grove as taught by Howe to provide added security.

(10) Response to Argument

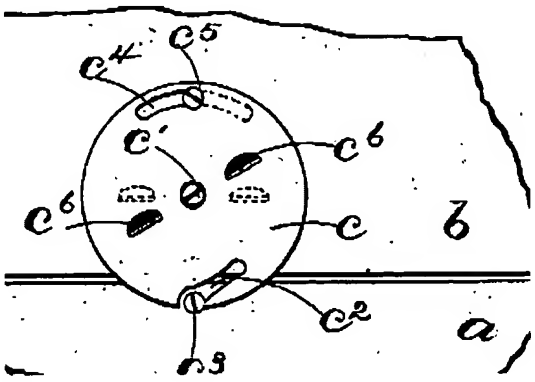
Applicant's arguments have been fully considered but they are not persuasive.

The examiner would suggest that the Board would take a look first at the broadest claim 53. The claim recites "the lid coupler having a first coupling position in which the lid coupler engages the lid when the lid is in an opened position." It is noted that the first coupling position is shown in Fig. 7 wherein the actuator (hook 55) started to engages by touching the lid latch 50. The examiner submits that this is not actually an open position as shown in Fig. 1, where no one can insert or retrieve any contents from the box. Thus the term "opened position" is broad comprising any position prior to the locking position in Fig. 9.

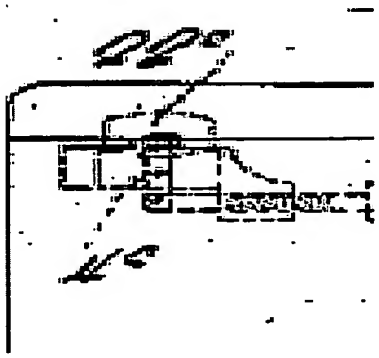
Applicant asserts that the latches, as applied above must be closed, i.e, fully closed, in order for the latch to operate. The examiner disagrees. Similar to applicant's invention as claimed. These container may be partially open and the rotating force would applied to draw the two parts of the container together for a tighter fit as applied in the applications of briefcase, luggage and other types of containers. These structures are typically inherent in the rotating latches so that one does not have to tightly pressing the two parts of the container together.

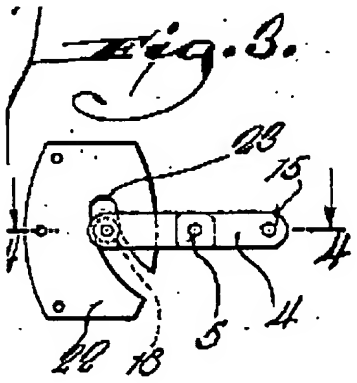
The examiner would like to address issue 3 first with the broadest claim 53.

Issue 3: Claim 53 has been rejected under 35 U.S.C. 102(b) as being anticipated by anyone of Howe (532067), Wilkirson (2708302), and Luce (Re16643).



In the Howe reference, it is noted that Fig. 2 shows the similar position wherein the hook at C2 started to engage the latch C3 and the lid has a crack in the opening. Applicant asserts that there is the lid must be closed before the latches are engage. The examiner disagrees Fig. 2 shows that the hooking cams c2 can engage the latch in the open position as shown.





In the Luce reference, note first at the trunk embodiment in Fig. 7 which shows an ordinary trunk with a hinge lid. Note that the details in the two latches 22c and 22b shows clearly in Fig. 3 where the hook portion 22 engages the latch protrusion 18 along the path 18.

The examiner submits that when the hooking cams 22 engages the latch protrusion 18 along the path 18. This is the same as applicant's open position.

Issue 1: Claims 27, 28, 30, 34, and 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Remington et al. (4363226).

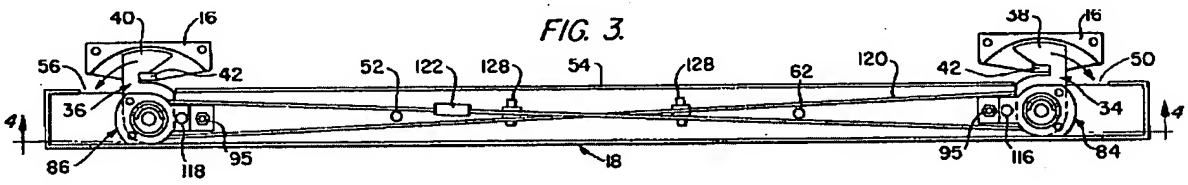
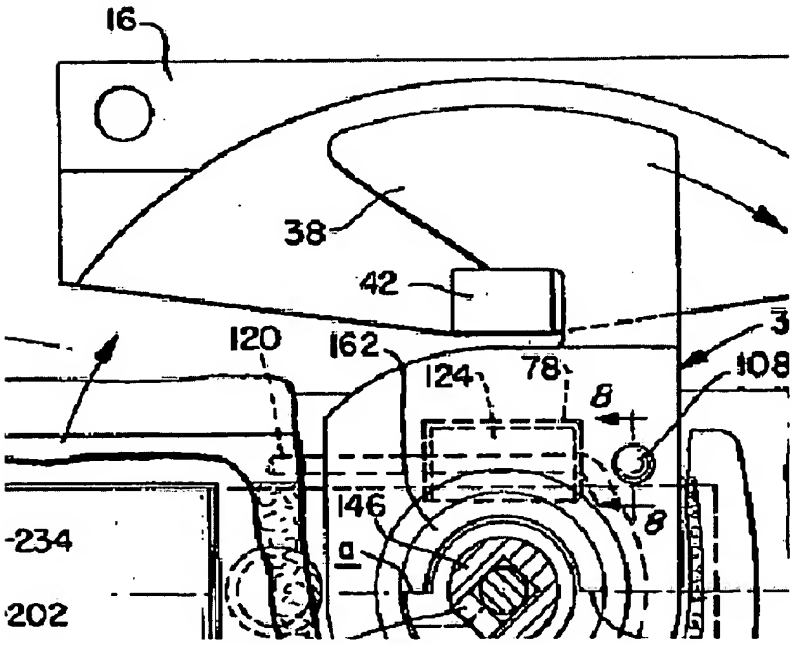
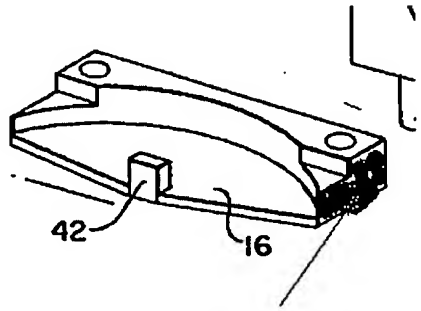


FIG. 3.





In the Remington reference, note first at Fig. 3 where the two hooking cams 38 and 40 rotate to engage the lid latch protrusions 42. Although Fig. 3 does not show the first moment hooking cams 38 in their first moment to engage latch protrusions 42. The examiner submits that when the hooking cams 38 and 40 would engage first at the slanted edges (note the slanted edge adjacent numeral 38 in Fig. 5). As the locks rotate the slanted edges would force the latch protrusions 42 into the lock position in Fig. 3. 3) In the Saunders reference, note first at the hooking cams 11 as it rotates to engage the lid actuators 10. The examiner submits that at the first moment hooking cam 11 engages the lid actuators. This is the same open position as set forth in the claim. The examiner submits that when the hooking cams 11 would engage first at one end of the inner groove of portion 14. As the cam 11 rotates, the inner groove of portion 11 would force the latch protrusion 10 into tighter lock position along the inner groove.

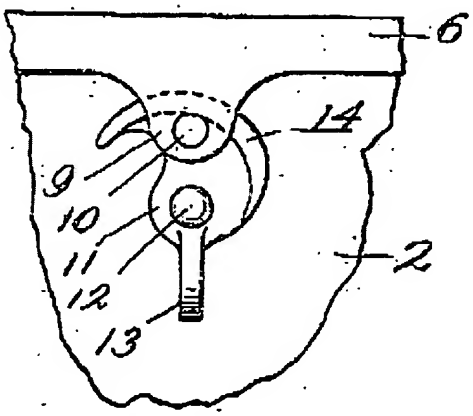
Regarding claim 28, the examiner submits that the base structure can be attached to a vehicle and a size to fit between the truck bed, i.e., the base can be tied to a truck bed and its smaller size is between the walls of the truck bed.

Regarding claim 30, Figs. 3 and 4 show the lid actuators 42 positioned in the notch of hooking cams 40 and 38.

Regarding claim 34, in Fig. 2, note the L-shaped sidewall of lid latch 16.

Issue 2: Claims 35, and 36 have been rejected under 35 U.S.C. 102(b) as being anticipated by Saunders (1155447).

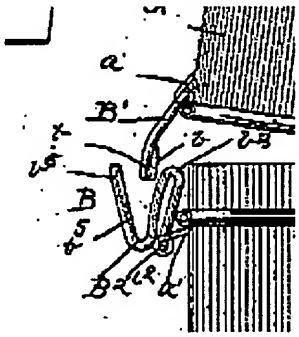
Fig. 3.



The lid actuator including a hooking cam 11 to engage the lid latch 10 while the lid is in an open position such that the lid latch tracks along the hooking cam of the lid actuator such that the lid actuator is rotated the lid latch tracks along the hooking cam and the lid actuator is pulled down along the thickness of portion 14.

Regarding the limitation wherein the lid actuator rotates substantially 180 degrees, applicant asserts that the latch can only move 90 degrees as shown in Fig. 3. The examiner submits that there is nothing to limit the traveling of portion 10 the entire curved portion 14. The functionality of the actuator rotating 180 degrees does not impart any structure over the latch structure in Saunder.

Issue 4: Claims 35-36, 38, 39, 43-49, and 53 have been rejected under 35 U.S.C. 102(b) as being anticipated by Grove (460437).



In the Grove reference, Fig. 3 also show the similar position to the open position wherein the V shape hook shape actuator with one of the legs b3 engages the latch B'. The lid latch B' tracks along the hooking cam of the lid actuator such that the lid actuator is rotated the lid latch tracks along the hooking cam and the lid actuator is pulled down along the curve and into the notch at B2 (note point b3 in Fig. 1).

Claim 43 adds another limitation where the lid actuator and latch each rotatable in a common plane to a front. The examiner notes of the two pivot points a, a2. The examiner further submits that the term "front" is broad and any walls in Groove can be called a front. Thus, the both portions B' and B in Fig. 3 rotatable in a common plane to a front similar to that of applicant's with respect to the plane in fig. 3.

Claim 35 adds another limitation wherein the actuator substantially 180 degrees. It is noted that the actuator would travel from the position shown in Fig. 3 to the position shown in Fig. 1 wherein portion b5 is rested on the wall A'. Thus, the actuator travels substantially 180 degrees as claimed.

7. Issue 5: Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grove (460437) in view of Howe (532067).

As set forth above, the examiner submits it would have been obvious to one of ordinary skill in the art to provide two lid couplers in Grove as taught by Howe to provide added security.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

TRI M. MAI
PRIMARY EXAMINER

Tri Mai,

T.Mai

Conferees:

Anthony Stashisk (SPE), Joe Hail

ANTHONY D. STASHICK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

Joseph J. Hail, III
Supervisory Patent Examiner
Technology Center 3700